

1.	Markets 1 thru 10	\$17,775	FCC,UHFCommercial
2.	Markets 11 thru 25	\$16,175	P.O. Box 358835
3.	Markets 26 thru 50	\$ 9,300	Pittsburgh, PA
4.	Markets 51 thru 100	\$ 5,550	15251-5835
5.	Remaining Markets	\$ 1,650	
6.	Construction Permits	\$ 5,675	

Satellite UHF/VHF Commercial

1.	All Markets	\$1,050	FCC Satellite TV
2.	Construction Permits	\$ 520	P.O. Box 358835
			Pittsburgh, PA
			15251-5835

Low Power TV, TV/FM Translator,& TV/FM Booster (47 CFR Part 74)	\$ 385	FCC, Low Power P.O. Box 358835 Pittsburgh, PA 15251-5835
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Broadcast Auxiliary	\$ 10	FCC, Auxiliary P.O. Box 358835 Pittsburgh, PA 15251-5835
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4. Section 1.1154 is revised to read as follows:

§ 1.1154 Schedule of annual regulatory charges and filing locations for common carrier services.

Radio Facilities	Fee Amount	Address
1. Microwave (Domestic Public Fixed) (Electronic Filing) (FCC Form 601 & 159)	\$50.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

Carriers

1. Interstate Telephone Service Providers (per interstate and international end-user revenues (see FCC Form 499-A))	\$.00218	FCC, Carriers P.O. Box 358835 Pittsburgh, PA 15251-5835
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5. Section 1.1155 is revised to read as follows:

§ 1.1155 Schedule of regulatory fees and filing locations for cable television services.

	<=25,000 population	\$350
	25,001-75,000 population	\$525
	75,001-150,000 population	\$700
	150,001-500,000 population	\$1,050
	500,001-1,200,000 population	\$1,750
	1,200,001-3,000,000 population	\$2,625
	>3,000,000 population	\$3,325
4.	<u>AM Class D</u>	
	<=25,000 population	\$425
	25,001-75,000 population	\$625
	75,001-150,000 population	\$1,075
	150,001-500,000 population	\$1,275
	500,001-1,200,000 population	\$2,125
	1,200,001-3,000,000 population	\$3,400
	>3,000,000 population	\$4,250
5.	AM Construction Permit	\$465
6.	<u>FM Classes A, B1 and C3</u>	
	<=25,000 population	\$525
	25,001-75,000 population	\$1,050
	75,001-150,000 population	\$1,450
	150,001-500,000 population	\$2,225
	500,001-1,200,000 population	\$3,550
	1,200,001-3,000,000 population	\$5,775
	>3,000,000 population	\$7,350
7.	<u>FM Classes B, C, C0, C1 and C2</u>	
	<=25,000 population	\$675
	25,001-75,000 population	\$1,175
	75,001-150,000 population	\$2,200
	150,001-500,000 population	\$2,875
	500,001-1,200,000 population	\$4,225
	1,200,001-3,000,000 population	\$6,750
	>3,000,000 population	\$8,775
8.	FM Construction Permits	\$1,650

TV (47 CFR, Part 73)**VHF Commercial**

1.	Markets 1 thru 10	\$60,375
2.	Markets 11 thru 25	\$41,475
3.	Markets 26 thru 50	\$29,175
4.	Markets 51 thru 100	\$17,575
5.	Remaining Markets	\$ 4,050
6.	Construction Permits	\$ 4,650

FCC, TV Branch
P.O. Box 358835
Pittsburgh, PA
15251-5835

UHF Commercial

6. CMRS Mobile Services (per unit) (FCC 159)	\$.25 ⁸¹	FCC P.O. Box 358835 Pittsburgh, PA 15251-5835
7. CMRS Messaging Services (per unit) (FCC 159)	\$.08 ⁸²	FCC P.O. Box 358835 Pittsburgh, PA 15251-5835
8. Multipoint Distribution (Includes MMDS and MDS)	\$ 270	FCC, Multipoint P.O. Box 358835 Pittsburgh, PA 15251-5835
9. Local Multipoint Distribution Service	\$ 270	FCC, Multipoint P.O. Box 358835 Pittsburgh, PA 15251-5835

3. Section 1.1153 is revised to read as follows:

§ 1.1153 Schedule of annual regulatory fees and filing locations for mass media services.

Radio [AM and FM] (47 CFR, Part 73)	Fee Amount	Address
1. <u>AM Class A</u>		
<=25,000 population	\$600	FCC, Radio
25,001-75,000 population	\$1,200	P.O. Box 358835
75,001-150,000 population	\$1,800	Pittsburgh, PA
150,001-500,000 population	\$2,700	15251-5835
500,001-1,200,000 population	\$3,900	
1,200,001-3,000,000 population	\$6,000	
>3,000,000 population	\$7,200	
2. <u>AM Class B</u>		
<=25,000 population	\$450	
25,001-75,000 population	\$900	
75,001-150,000 population	\$1,125	
150,001-500,000 population	\$1,925	
500,001-1,200,000 population	\$2,925	
1,200,001-3,000,000 population	\$4,500	
>3,000,000 population	\$5,400	
3. <u>AM Class C</u>		

⁸¹ These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

⁸² These are standard fees that are to be paid in accordance with § 1.1157(b) of this chapter.

(FCC 605 & 159)		Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 605 & 159)	\$15.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 605 & 159)	\$15.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Aviation Aircraft a)New, Renew/Mod (FCC 605 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 605 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 605 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
5. Amateur Vanity Call Signs a)Initial or Renew (FCC 605 & 159)	\$2.08	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)Initial or Renew (Electronic Filing) (FCC 605 & 159)	\$2.08	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

(FCC 605 & 159)		Pittsburgh, PA 15251-5994
Rural Radio (Part 22)		
a)New, Additional Facility, Major Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
b)Renewal, Minor Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Marine Coast		
a)New Renewal/Mod (FCC 601 & 159)	\$10.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)Renewal Only (FCC 601 & 159)	\$10.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
c)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Aviation Ground		
a)New, Renewal/Mod (FCC 601 & 159)	\$15.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)Renewal Only (FCC 601 & 159)	\$15.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
c)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$15.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
Marine Ship		
a)New, Renewal/Mod (FCC 605 & 159)	\$15.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renewal/Mod (Electronic Filing)	\$15.00	FCC P.O. Box 358994

c)Renewal Only (FCC 601 & 159)	\$50.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$50.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

4. Shared Use Services

**Land Mobile (Frequencies
Below 470 MHz – except
220 MHz)**

a)New, Renew/Mod (FCC 601 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 601 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

General Mobile Radio Service

a)New, Renew/Mod (FCC 605 & 159)	\$5.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 605 & 159)	\$5.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 605 & 159)	\$5.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing)	\$5.00	FCC P.O. Box 358994

220 MHz Nationwide	\$10.00	FCC
a)New, Renew/Mod (FCC 601 & 159)		P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 601 & 159)	\$10.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
2. Microwave (47 CFR Pt. 101) (Private)		
a)New, Renew/Mod (FCC 601 & 159)	\$50.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$50.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c)Renewal Only (FCC 601 & 159)	\$50.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d)Renewal Only (Electronic Filing) (FCC 601 & 159)	\$50.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
3. 218-219 MHz Service		
a)New, Renew/Mod (FCC 601 & 159)	\$50.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b)New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$50.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

RULE CHANGES

Part 1 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 1 – PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303, 309.

2. Section 1.1152 is revised to read as follows:

§ 1.1152 Schedule of annual regulatory fees and filing locations for wireless radio services.

Exclusive use services (per license)	Fee Amount ⁸⁰	Address
1. Land Mobile (Above 470 MHz and 220 MHz Local, Base Station & SMRS) (47 CFR, Part 90)		
a) New, Renew/Mod (FCC 601 & 159)	\$10.00	FCC P.O. Box 358130 Pittsburgh, PA 15251-5130
b) New, Renew/Mod (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994
c) Renewal Only (FCC 601 & 159)	\$10.00	FCC P.O. Box 358245 Pittsburgh, PA 15251-5245
d) Renewal Only (Electronic Filing) (FCC 601 & 159)	\$10.00	FCC P.O. Box 358994 Pittsburgh, PA 15251-5994

⁸⁰ Note that "small fees" are collected in advance for the entire license term. Therefore, the annual fee amount shown in this table that is a small fee (categories 1 through 5) must be multiplied by the 5- or 10-year license term, as appropriate, to arrive at the total amount of regulatory fees owed. It should be further noted that application fees may also apply as detailed in §1.1102 of this chapter.

	Fee Amount	Address
1. Cable Television Relay Service	\$135	FCC, Cable
2. Cable TV System (per subscriber)	\$.70	P.O. Box 358835 Pittsburgh, PA 15251-5835

6. Section 1.1156 is revised to read as follows:

§ 1.1156 Schedule of regulatory fees and filing locations for international services.

Radio Facilities	Fee Amount	Address
1. International (HF) Broadcast	\$745	FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835
2. International Public Fixed	\$1,750	FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835
Space Stations (Geostationary Orbit)	\$114,675	FCC, Space Stations P.O. Box 358835 Pittsburgh, PA 15251-5835
Space Stations (Non-Geostationary Orbit)	\$131,400	FCC, Space Stations P.O. Box 358835 Pittsburgh, PA 15251-5835
Earth Stations Transmit/Receive & Transmit Only (per authorization or registration)	\$200	FCC, Earth Station P.O. Box 358835 Pittsburgh, PA 15251-5835
Carriers International Bearer Circuits (per active 64KB circuit or equivalent)	\$ 2.52	FCC, International P.O. Box 358835 Pittsburgh, PA 15251-5835

ATTACHMENT A

FINAL REGULATORY FLEXIBILITY ANALYSIS

A. As required by the Regulatory Flexibility Act (RFA),⁸³ the Commission prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules in the present Notice of Proposed Rulemaking, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2004. Written public comments were sought on the FY 2004 fees proposal, including comments on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.⁸⁴

I. Need for, and Objectives of, the Proposed Rules:

B. This rulemaking proceeding is initiated to amend the Schedule of Regulatory Fees in the amount of \$272,958,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its revised Schedule of Regulatory Fees in the most efficient manner possible and without undue public burden.

II. Summary of Significant Issues Raised by Public Comments in Response to the IRFA:

C. None.

III. DESCRIPTION AND ESTIMATE OF THE NUMBER OF SMALL ENTITIES TO WHICH THE PROPOSED RULES WILL APPLY:

73. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted.⁸⁵ The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction."⁸⁶ In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act.⁸⁷ A "small business concern" is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.⁸⁸

74. **Small Businesses.** Nationwide, there are a total of 22.4 million small businesses, according

⁸³ 5 U.S.C. § 603. The RFA, 5 U.S.C. §§ 601-612 has been amended by the Contract With America Advancement Act of 1996, Public Law No. 104-121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

⁸⁴ See 5 U.S.C. 604.

⁸⁵ 5 U.S.C. § 603(b)(3).

⁸⁶ 5 U.S.C. § 601(6).

⁸⁷ 5 U.S.C. § 601(3) (incorporating by reference the definition of "small-business concern" in the Small Business Act, 15 U.S.C. § 632). Pursuant to 5 U.S.C. § 601(3), the statutory definition of a small business applies "unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the Federal Register."

⁸⁸ 15 U.S.C. § 632.

to SBA data.⁸⁹

75. Small Organizations. Nationwide, there are approximately 1.6 million small organizations.⁹⁰

76. Small Governmental Jurisdictions. The term "small governmental jurisdiction" is defined as "governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand."⁹¹ As of 1997, there were approximately 87,453 governmental jurisdictions in the United States.⁹² This number includes 39,044 county governments, municipalities, and townships, of which 37,546 (approximately 96.2%) have populations of fewer than 50,000, and of which 1,498 have populations of 50,000 or more. Thus, we estimate the number of small governmental jurisdictions overall to be 84,098 or fewer.

77. We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a "small business" under the RFA is one that, inter alia, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and "is not dominant in its field of operation."⁹³ The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not "national" in scope.⁹⁴ We have therefore included small incumbent local exchange carriers in this RFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

78. Incumbent Local Exchange Carriers (LECs). Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁹⁵ According to Commission data,⁹⁶ 1,337 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,337 carriers, an estimated 1,032 have 1,500 or fewer employees and 305 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by our proposed action.

79. Competitive Local Exchange Carriers (CLECs), Competitive Access Providers (CAPs), "Shared-Tenant Service Providers," and "Other Local Service Providers." Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under

⁸⁹ See SBA, Programs and Services, SBA Pamphlet No. CO-0028, at page 40 (July 2002).

⁹⁰ Independent Sector, *The New Nonprofit Almanac & Desk Reference* (2002).

⁹¹ 5 U.S.C. § 601(5).

⁹² U.S. Census Bureau, *Statistical Abstract of the United States: 2000*, Section 9, pages 299-300, Tables 490 and 492.

⁹³ 15 U.S.C. § 632.

⁹⁴ Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of "small-business concern," which the RFA incorporates into its own definition of "small business." See 15 U.S.C. § 632(a) (Small Business Act); 5 U.S.C. § 601(3) (RFA). SBA regulations interpret "small business concern" to include the concept of dominance on a national basis. See 13 C.F.R. § 121.102(b).

⁹⁵ 13 C.F.R. § 121.201, North American Industry Classification System (NAICS) code 517110 (changed from 513310 in October 2002).

⁹⁶ FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, Page 5-5 (Aug. 2003) (hereinafter "Trends in Telephone Service"). This source uses data that are current as of December 31, 2001.

that size standard, such a business is small if it has 1,500 or fewer employees.⁹⁷ According to Commission data,⁹⁸ 609 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 609 carriers, an estimated 458 have 1,500 or fewer employees and 151 have more than 1,500 employees. In addition, 16 carriers have reported that they are "Shared-Tenant Service Providers," and all 16 are estimated to have 1,500 or fewer employees. In addition, 35 carriers have reported that they are "Other Local Service Providers." Of the 35, an estimated 34 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, "Shared-Tenant Service Providers," and "Other Local Service Providers" are small entities that may be affected by our proposed action.

80. Local Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.⁹⁹ According to Commission data,¹⁰⁰ 133 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 127 have 1,500 or fewer employees and six have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by our proposed action.

81. Toll Resellers. The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁰¹ According to Commission data,¹⁰² 625 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 590 have 1,500 or fewer employees and 35 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by our proposed action.

82. Payphone Service Providers (PSPs). Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁰³ According to Commission data,¹⁰⁴ 761 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 757 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by our proposed action.

83. Interexchange Carriers (IXCs). Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁰⁵ According to Commission data,¹⁰⁶ 261 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 223 have 1,500 or fewer employees and 38 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected

⁹⁷ 13 C.F.R. § 121.201, NAICS code 517110 (changed from 513310 in October 2002).

⁹⁸ "Trends in Telephone Service" at Table 5.3.

⁹⁹ 13 CFR § 121.201, NAICS code 517310 (changed from 513330 in October 2002).

¹⁰⁰ "Trends in Telephone Service" at Table 5.3.

¹⁰¹ 13 CFR § 121.201, NAICS code 517310 (changed to 513330 in October 2002).

¹⁰² "Trends in Telephone Service" at Table 5.3.

¹⁰³ 3 CFR § 121.201, NAICS code 517110 (changed from 513310 in October 2002).

¹⁰⁴ "Trends in Telephone Service" at Table 5.3.

¹⁰⁵ 13 C.F.R. § 121.201, NAICS code 517110 (changed from 513310 in October 2002).

¹⁰⁶ "Trends in Telephone Service" at Table 5.3.

by our proposed action.

84. Operator Service Providers (OSPs). Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁰⁷ According to Commission data,¹⁰⁸ 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 22 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by our proposed action.

85. Prepaid Calling Card Providers. Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹⁰⁹ According to Commission data,¹¹⁰ 37 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, an estimated 36 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that the majority of prepaid calling card providers are small entities that may be affected by our proposed action.

86. 800 and 800-Like Service Subscribers.¹¹¹ Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service ("toll free") subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees.¹¹² The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use.¹¹³ According to our data, at the end of January, 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. We do not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, we estimate that there are 7,692,955 or fewer small entity 800 subscribers; 7,706,393 or fewer small entity 888 subscribers; and 1,946,538 or fewer small entity 877 subscribers.

87. International Service Providers. The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad categories of Satellite Telecommunications and Other Telecommunications. Under both categories, such a business is small if it has \$12.5 million or less in average annual receipts.¹¹⁴ For the first category of Satellite Telecommunications, Census Bureau data for 1997 show that there were a total of 324 firms that operated for the entire year.¹¹⁵ Of this total, 273 firms had annual receipts of under \$10 million, and an additional 24 firms had receipts of \$10 million to \$24,999,999. Thus, the

¹⁰⁷ 13 C.F.R. § 121.201, NAICS code 517110 (changed from 513310 in October 2002).

¹⁰⁸ "Trends in Telephone Service" at Table 5.3.

¹⁰⁹ 13 C.F.R. § 121.201, NAICS code 517310 (changed from 513330 in October 2002).

¹¹⁰ "Trends in Telephone Service" at Table 5.3.

¹¹¹ We include all toll-free number subscribers in this category, including those for 888 numbers.

¹¹² 13 C.F.R. § 121.201, NAICS code 517310 (changed from 513330 in October 2002).

¹¹³ FCC, Common Carrier Bureau, Industry Analysis Division, Study on Telephone Trends, Tables 21.2, 21.3, and 21.4 (Feb. 19, 1999).

¹¹⁴ 13 C.F.R. § 121.201, NAICS codes 517410 and 517910 (changed from 513340 and 513390 in October 2002).

¹¹⁵ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4, NAICS code 513340 (issued October 2000).

majority of Satellite Telecommunications firms can be considered small.

88. The second category – Other Telecommunications – includes “establishments primarily engaged in ... providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.”¹¹⁶ According to Census Bureau data for 1997, there were 439 firms in this category that operated for the entire year.¹¹⁷ Of this total, 424 firms had annual receipts of \$5 million to \$9,999,999 and an additional six firms had annual receipts of \$10 million to \$24,999,990. Thus, under this second size standard, the majority of firms can be considered small.

89. **Wireless Service Providers.** The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of “Paging”¹¹⁸ and “Cellular and Other Wireless Telecommunications.”¹¹⁹ Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year.¹²⁰ Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more.¹²¹ Thus, under this category and associated small business size standard, the great majority of firms can be considered small. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year.¹²² Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.¹²³ Thus, under this second category and size standard, the great majority of firms can, again, be considered small.

90. **Internet Service Providers.** The SBA has developed a small business size standard for Internet Service Providers. This category comprises establishments “primarily engaged in providing direct access through telecommunications networks to computer-held information compiled or published by others.”¹²⁴ Under the SBA size standard, such a business is small if it has average annual receipts of \$21 million or less.¹²⁵ According to Census Bureau data for 1997, there were 2,751 firms in this category

¹¹⁶ Office of Management and Budget, North American Industry Classification System, page 513 (1997) (NAICS code 513390, changed to 517910 in October 2002).

¹¹⁷ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 4, NAICS code 513390 (issued October 2000).

¹¹⁸ 13 C.F.R. § 121.201, NAICS code 513321 (changed to 517211 in October 2002).

¹¹⁹ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

¹²⁰ U.S. Census Bureau, 1997 Economic Census, Subject Series: “Information,” Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000).

¹²¹ U.S. Census Bureau, 1997 Economic Census, Subject Series: “Information,” Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000). The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is “Firms with 1000 employees or more.”

¹²² U.S. Census Bureau, 1997 Economic Census, Subject Series: “Information,” Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000).

¹²³ U.S. Census Bureau, 1997 Economic Census, Subject Series: “Information,” Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000). The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is “Firms with 1000 employees or more.”

¹²⁴ Office of Management and Budget, North American Industry Classification System, page 515 (1997). NAICS code 514191, “On-Line Information Services” (changed to current name and to code 518111 in October 2002).

¹²⁵ 13 C.F.R. § 121.201, NAICS code 518111.

that operated for the entire year.¹²⁶ Of these, 2,659 firms had annual receipts of under \$10 million, and an additional 67 firms had receipts of between \$10 million and \$24,999,999.¹²⁷ Thus, under this size standard, the great majority of firms can be considered small entities.

91. Cellular Licensees. The SBA has developed a small business size standard for wireless firms within the broad economic census category "Cellular and Other Wireless Telecommunications."¹²⁸ Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category Cellular and Other Wireless Telecommunications firms, Census Bureau data for 1997 show that there were 977 firms in this category, total, that operated for the entire year.¹²⁹ Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.¹³⁰ Thus, under this category and size standard, the great majority of firms can be considered small. According to the most recent Trends in Telephone Service data, 719 carriers reported that they were engaged in the provision of cellular service, personal communications service, or specialized mobile radio telephony services, which are placed together in the data.¹³¹ We have estimated that 294 of these are small, under the SBA small business size standard.¹³²

92. Common Carrier Paging. The SBA has developed a small business size standard for wireless firms within the broad economic census categories of "Cellular and Other Wireless Telecommunications."¹³³ Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category, total, that operated for the entire year.¹³⁴ Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more.¹³⁵ Thus, under this category and associated small business size standard, the great majority of firms can be considered small.

¹²⁶ U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 4, Receipts Size of Firms Subject to Federal Income Tax: 1997, NAICS code 514191 (issued October 2000).

¹²⁷ U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 4, Receipts Size of Firms Subject to Federal Income Tax: 1997, NAICS code 514191 (issued October 2000).

¹²⁸ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

¹²⁹ U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000).

¹³⁰ U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513322 (issued October 2000). The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1000 employees or more."

¹³¹ FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, page 5-5 (August 2003). This source uses data that are current as of December 31, 2001.

¹³² FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, page 5-5 (August 2003). This source uses data that are current as of December 31, 2001.

¹³³ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

¹³⁴ U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000).

¹³⁵ U.S. Census Bureau, 1997 Economic Census, Subject Series: "Information," Table 5, Employment Size of Firms Subject to Federal Income Tax: 1997, NAICS code 513321 (issued October 2000). The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1000 employees or more."

93. In the Paging Second Report and Order, the Commission adopted a size standard for “small businesses” for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.¹³⁶ A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years.¹³⁷ The SBA has approved this definition.¹³⁸ An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 2,499 licenses auctioned, 985 were sold.¹³⁹ Fifty-seven companies claiming small business status won 440 licenses.¹⁴⁰ An auction of MEA and Economic Area (EA) licenses commenced on October 30, 2001, and closed on December 5, 2001. Of the 15,514 licenses auctioned, 5,323 were sold.¹⁴¹ One hundred thirty-two companies claiming small business status purchased 3,724 licenses. A third auction, consisting of 8,874 licenses in each of 175 EAs and 1,328 licenses in all but three of the 51 MEAs commenced on May 13, 2003, and closed on May 28, 2003. Seventy-seven bidders claiming small or very small business status won 2,093 licenses.¹⁴² Currently, there are approximately 74,000 Common Carrier Paging licenses. According to the most recent Trends in Telephone Service, 608 private and common carriers reported that they were engaged in the provision of either paging or “other mobile” services.¹⁴³ Of these, we estimate that 589 are small, under the SBA-approved small business size standard.¹⁴⁴ We estimate that the majority of common carrier paging providers would qualify as small entities under the SBA definition.

94. **Wireless Communications Services.** This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission defined “small business” for the wireless communications services (WCS) auction as an entity with average gross revenues of \$40 million for each of the three preceding years, and a “very small business” as an entity with average gross revenues of \$15 million for each of the three preceding years.¹⁴⁵ The SBA has approved these definitions.¹⁴⁶ The Commission auctioned geographic area licenses in the WCS service. In the auction, which commenced on April 15, 1997 and closed on April 25, 1997, there were seven bidders that won 31 licenses that qualified as very small business entities, and one bidder that won one license that qualified as

¹³⁶ Revision of Part 22 and Part 90 of the Commission’s Rules to Facilitate Future Development of Paging Systems, Second Report and Order, 12 FCC Rcd 2732, 2811-2812, paras. 178-181 (Paging Second Report and Order); *see also* Revision of Part 22 and Part 90 of the Commission’s Rules to Facilitate Future Development of Paging Systems, Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 10030, 10085-10088, paras. 98-107 (1999).

¹³⁷ Paging Second Report and Order, 12 FCC Rcd at 2811, para. 179.

¹³⁸ *See* Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

¹³⁹ *See* “929 and 931 MHz Paging Auction Closes,” Public Notice, 15 FCC Rcd 4858 (WTB 2000).

¹⁴⁰ *See* “929 and 931 MHz Paging Auction Closes,” Public Notice, 15 FCC Rcd 4858 (WTB 2000).

¹⁴¹ *See* “Lower and Upper Paging Band Auction Closes,” Public Notice, 16 FCC Rcd 21821 (WTB 2002).

¹⁴² *See* “Lower and Upper Paging Bands Auction Closes,” Public Notice, 18 FCC Rcd 11154 (WTB 2003).

¹⁴³ *See* Trends in Telephone Service, Industry Analysis Division, Wireline Competition Bureau, Table 5.3 (Number of Telecommunications Service Providers that are Small Businesses) (May 2002).

¹⁴⁴ 13 C.F.R. § 121.201, NAICS code 517211.

¹⁴⁵ Amendment of the Commission’s Rules to Establish Part 27, the Wireless Communications Service (WCS), Report and Order, 12 FCC Rcd 10785, 10879, para. 194 (1997).

¹⁴⁶ *See* Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

a small business entity. An auction for one license in the 1670-1674 MHz band commenced on April 30, 2003 and closed the same day. One license was awarded. The winning bidder was not a small entity.

95. Wireless Telephony. Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. The SBA has developed a small business size standard for "Cellular and Other Wireless Telecommunications" services.¹⁴⁷ Under the SBA small business size standard, a business is small if it has 1,500 or fewer employees.¹⁴⁸ According to the most recent Trends in Telephone Service data, 719 carriers reported that they were engaged in wireless telephony.¹⁴⁹ We have estimated that 294 of these are small under the SBA small business size standard.

96. Broadband Personal Communications Service. The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.¹⁵⁰ For Block F, an additional small business size standard for "very small business" was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.¹⁵¹ These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA.¹⁵² No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 "small" and "very small" business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F.¹⁵³ On March 23, 1999, the Commission reaucted 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.¹⁵⁴

97. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses.¹⁵⁵ Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

98. Narrowband Personal Communications Services. The Commission held an auction for Narrowband PCS licenses that commenced on July 25, 1994, and closed on July 29, 1994. A second

¹⁴⁷ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

¹⁴⁸ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

¹⁴⁹ FCC, Wireline Competition Bureau, Industry Analysis and Technology Division, "Trends in Telephone Service" at Table 5.3, page 5-5 (August 2003). This source uses data that are current as of December 31, 2001.

¹⁵⁰ See Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, *Report and Order*, 11 FCC Rcd 7824, 7850-7852, paras. 57-60 (1996); see also 47 C.F.R. § 24.720(b).

¹⁵¹ See Amendment of Parts 20 and 24 of the Commission's Rules – Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, *Report and Order*, 11 FCC Rcd 7824, 7852, para. 60.

¹⁵² See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

¹⁵³ FCC News, "Broadband PCS, D, E and F Block Auction Closes," No. 71744 (released January 14, 1997).

¹⁵⁴ See "C, D, E, and F Block Broadband PCS Auction Closes," *Public Notice*, 14 FCC Rcd 6688 (WTB 1999).

¹⁵⁵ See "C and F Block Broadband PCS Auction Closes; Winning Bidders Announced," *Public Notice*, 16 FCC Rcd 2339 (2001).

auction commenced on October 26, 1994 and closed on November 8, 1994. For purposes of the first two Narrowband PCS auctions, "small businesses" were entities with average gross revenues for the prior three calendar years of \$40 million or less.¹⁵⁶ Through these auctions, the Commission awarded a total of 41 licenses, 11 of which were obtained by four small businesses.¹⁵⁷ To ensure meaningful participation by small business entities in future auctions, the Commission adopted a two-tiered small business size standard in the Narrowband PCS Second Report and Order.¹⁵⁸ A "small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$40 million.¹⁵⁹ A "very small business" is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than \$15 million.¹⁶⁰ The SBA has approved these small business size standards.¹⁶¹ A third auction commenced on October 3, 2001 and closed on October 16, 2001. Here, five bidders won 317 (Metropolitan Trading Areas and nationwide) licenses.¹⁶² Three of these claimed status as a small or very small entity and won 311 licenses.

99. Lower 700 MHz Band Licenses. We adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits.¹⁶³ We have defined a "small business" as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.¹⁶⁴ A "very small business" is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.¹⁶⁵ Additionally, the lower 700 MHz Service has a third category of small business status that may be claimed for Metropolitan/Rural

¹⁵⁶ Implementation of Section 309(j) of the Communications Act – Competitive Bidding Narrowband PCS, *Third Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 10 FCC Rcd 175, 196, para. 46 (1994).

¹⁵⁷ See "Announcing the High Bidders in the Auction of ten Nationwide Narrowband PCS Licenses, Winning Bids Total \$617,006,674," *Public Notice*, PNWL 94-004 (released Aug. 2, 1994); "Announcing the High Bidders in the Auction of 30 Regional Narrowband PCS Licenses; Winning Bids Total \$490,901,787," *Public Notice*, PNWL 94-27 (released Nov. 9, 1994).

¹⁵⁸ Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, *Second Report and Order and Second Further Notice of Proposed Rule Making*, 15 FCC Rcd 10456, 10476, para. 40 (2000).

¹⁵⁹ Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, *Second Report and Order and Second Further Notice of Proposed Rule Making*, 15 FCC Rcd 10456, 10476, para. 40 (2000).

¹⁶⁰ Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, *Second Report and Order and Second Further Notice of Proposed Rule Making*, 15 FCC Rcd 10456, 10476, para. 40 (2000).

¹⁶¹ See Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated December 2, 1998.

¹⁶² See "Narrowband PCS Auction Closes," *Public Notice*, 16 FCC Rcd 18663 (WTB 2001).

¹⁶³ See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, 17 FCC Rcd 1022 (2002).

¹⁶⁴ See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, 17 FCC Rcd 1022, 1087-88, para. 172 (2002).

¹⁶⁵ See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, 17 FCC Rcd 1022, 1087-88, para. 172 (2002).

Service Area (MSA/RSA) licenses. The third category is "entrepreneur," which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years.¹⁶⁶ The SBA has approved these small size standards.¹⁶⁷ An auction of 740 licenses (one license in each of the 734 MSAs/RSAs and one license in each of the six Economic Area Groupings (EAGs)) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses.¹⁶⁸ A second auction commenced on May 28, 2003, and closed on June 13, 2003, and included 256 licenses: 5 EAG licenses and 476 Cellular Market Area licenses.¹⁶⁹ Seventeen winning bidders claimed small or very small business status and won 60 licenses, and nine winning bidders claimed entrepreneur status and won 154 licenses.¹⁷⁰

100. **Upper 700 MHz Band Licenses.** The Commission released a Report and Order, authorizing service in the upper 700 MHz band.¹⁷¹ This auction, previously scheduled for January 13, 2003, has been postponed.¹⁷²

101. **700 MHz Guard Band Licenses.** In the 700 MHz Guard Band Order, we adopted size standards for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.¹⁷³ A small business in this service is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years.¹⁷⁴ Additionally, a very small business is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years.¹⁷⁵ SBA approval of these definitions is not required.¹⁷⁶ An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000,

¹⁶⁶ See Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), *Report and Order*, 17 FCC Rcd 1022, 1088, para. 173 (2002).

¹⁶⁷ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated August 10, 1999.

¹⁶⁸ See "Lower 700 MHz Band Auction Closes," *Public Notice*, 17 FCC Rcd 17272 (WTB 2002).

¹⁶⁹ See "Lower 700 MHz Band Auction Closes," *Public Notice*, 18 FCC Rcd 11873 (WTB 2003).

¹⁷⁰ See "Lower 700 MHz Band Auction Closes," *Public Notice*, 18 FCC Rcd 11873 (WTB 2003).

¹⁷¹ Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Second Memorandum Opinion and Order*, 16 FCC Rcd 1239 (2001).

¹⁷² See "Auction of Licenses for 747-762 and 777-792 MHz Bands (Auction No. 31) Is Rescheduled," *Public Notice*, 16 FCC Rcd 13079 (WTB 2003).

¹⁷³ See Service Rules for the 746-764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Second Report and Order*, 15 FCC Rcd 5299 (2000).

¹⁷⁴ See Service Rules for the 746-764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Second Report and Order*, 15 FCC Rcd 5299, 5343, para. 108 (2000).

¹⁷⁵ See Service Rules for the 746-764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Second Report and Order*, 15 FCC Rcd 5299, 5343, para. 108 (2000).

¹⁷⁶ See Service Rules for the 746-764 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Second Report and Order*, 15 FCC Rcd 5299, 5343, para. 108 n.246 (for the 746-764 MHz and 776-794 MHz bands, the Commission is exempt from 15 U.S.C. § 632, which requires Federal agencies to obtain SBA approval before adopting small business size standards).

and closed on September 21, 2000.¹⁷⁷ Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001, and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.¹⁷⁸

102. **Specialized Mobile Radio.** The Commission awards "small entity" bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than \$15 million in each of the three previous calendar years.¹⁷⁹ The Commission awards "very small entity" bidding credits to firms that had revenues of no more than \$3 million in each of the three previous calendar years.¹⁸⁰ The SBA has approved these small business size standards for the 900 MHz Service.¹⁸¹ The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz bands. The 900 MHz SMR auction began on December 5, 1995, and closed on April 15, 1996. Sixty bidders claiming that they qualified as small businesses under the \$15 million size standard won 263 geographic area licenses in the 900 MHz SMR band. The 800 MHz SMR auction for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten bidders claiming that they qualified as small businesses under the \$15 million size standard won 38 geographic area licenses for the upper 200 channels in the 800 MHz SMR band.¹⁸² A second auction for the 800 MHz band was held on January 10, 2002 and closed on January 17, 2002 and included 23 BEA licenses. One bidder claiming small business status won five licenses.¹⁸³

103. The auction of the 1,053 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven bidders won 108 geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard.¹⁸⁴ In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold.¹⁸⁵ Of the 22 winning bidders, 19 claimed small business status and won 129 licenses. Thus, combining all three auctions, 40 winning bidders for geographic licenses in the 800 MHz SMR band claimed status as small business.

¹⁷⁷ See "700 MHz Guard Bands Auction Closes: Winning Bidders Announced," *Public Notice*, 15 FCC Rcd 18026 (2000).

¹⁷⁸ See "700 MHz Guard Bands Auction Closes: Winning Bidders Announced," *Public Notice*, 16 FCC Rcd 4590 (WTB 2001).

¹⁷⁹ 47 C.F.R. § 90.814(b)(1).

¹⁸⁰ 47 C.F.R. § 90.814(b)(1).

¹⁸¹ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated August 10, 1999. We note that, although a request was also sent to the SBA requesting approval for the small business size standard for 800 MHz, approval is still pending.

¹⁸² See "Correction to Public Notice DA 96-586 'FCC Announces Winning Bidders in the Auction of 1020 Licenses to Provide 900 MHz SMR in Major Trading Areas,'" *Public Notice*, 18 FCC Rcd 18367 (WTB 1996).

¹⁸³ See "Multi-Radio Service Auction Closes," *Public Notice*, 17 FCC Rcd 1446 (WTB 2002).

¹⁸⁴ See, "800 MHz Specialized Mobile Radio (SMR) Service General Category (851-854 MHz) and Upper Band (861-865 MHz) Auction Closes; Winning Bidders Announced," *Public Notice*, 15 FCC Rcd 17162 (2000).

¹⁸⁵ See, "800 MHz SMR Service Lower 80 Channels Auction Closes; Winning Bidders Announced," *Public Notice*, 16 FCC Rcd 1736 (2000).

104. In addition, there are numerous incumbent site-by-site SMR licensees and licensees with extended implementation authorizations in the 800 and 900 MHz bands. We do not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. We assume, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is approved by the SBA.

105. **220 MHz Radio Service – Phase I Licensees.** The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the small business size standard under the SBA rules applicable to “Cellular and Other Wireless Telecommunications” companies. This category provides that a small business is a wireless company employing no more than 1,500 persons.¹⁸⁶ According to the Census Bureau data for 1997, only twelve firms out of a total of 1,238 such firms that operated for the entire year in 1997, had 1,000 or more employees.¹⁸⁷ If this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA’s small business standard.

106. **220 MHz Radio Service – Phase II Licensees.** The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz Third Report and Order, we adopted a small business size standard for defining “small” and “very small” businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.¹⁸⁸ This small business standard indicates that a “small business” is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years.¹⁸⁹ A “very small business” is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed \$3 million for the preceding three years.¹⁹⁰ The SBA has approved these small size standards.¹⁹¹ Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998.¹⁹² In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold.¹⁹³ Thirty-nine small businesses won 373 licenses in the first 220 MHz auction. A second auction included 225 licenses: 216 EA licenses and 9

¹⁸⁶ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

¹⁸⁷ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 5, NAICS code 513322 (October 2000).

¹⁸⁸ Amendment of Part 90 of the Commission’s Rules to Provide For the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, *Third Report and Order*, 12 FCC Rcd 10943, 11068-70, paras. 291-295 (1997).

¹⁸⁹ *Id.* at 11068, paras. 291.

¹⁹⁰ *Id.*

¹⁹¹ See Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated January 6, 1998.

¹⁹² See generally “220 MHz Service Auction Closes,” *Public Notice*, 14 FCC Rcd 605 (WTB 1998).

¹⁹³ See “FCC Announces It is Prepared to Grant 654 Phase II 220 MHz Licenses After Final Payment is Made,” *Public Notice*, 14 FCC Rcd 1085 (WTB 1999).

EAG licenses. Fourteen companies claiming small business status won 158 licenses.¹⁹⁴ A third auction included four licenses: 2 BEA licenses and 2 EAG licenses in the 220 MHz Service. No small or very small business won any of these licenses.¹⁹⁵

107. **Private Land Mobile Radio (PLMR).** PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories, and are often used in support of the licensee's primary (non-telecommunications) business operations. For the purpose of determining whether a licensee of a PLMR system is a small business as defined by the SBA, we could use the definition for "Cellular and Other Wireless Telecommunications." This definition provides that a small entity is any such entity employing no more than 1,500 persons.¹⁹⁶ The Commission does not require PLMR licensees to disclose information about number of employees, so the Commission does not have information that could be used to determine how many PLMR licensees constitute small entities under this definition. Moreover, because PLMR licensees generally are not in the business of providing cellular or other wireless telecommunications services but instead use the licensed facilities in support of other business activities, we are not certain that the Cellular and Other Wireless Telecommunications category is appropriate for determining how many PLMR licensees are small entities for this analysis. Rather, it may be more appropriate to assess PLMR licensees under the standards applied to the particular industry subsector to which the licensee belongs.¹⁹⁷

108. The Commission's 1994 Annual Report on PLMRs¹⁹⁸ indicates that at the end of fiscal year 1994, there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the revised rules in this context could potentially impact every small business in the United States.

109. **Fixed Microwave Services.** Fixed microwave services include common carrier,¹⁹⁹ private operational-fixed,²⁰⁰ and broadcast auxiliary radio services.²⁰¹ At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not created a size standard for a small business specifically with respect to fixed microwave services. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees.²⁰² The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of fixed microwave service licensees that would

¹⁹⁴ See "Phase II 220 MHz Service Spectrum Auction Closes," *Public Notice*, 14 FCC Rcd 11218 (WTB 1999).

¹⁹⁵ See "Multi-Radio Service Auction Closes," *Public Notice*, 17 FCC Rcd 1446 (WTB 2002).

¹⁹⁶ See 13 C.F.R. § 121.201, NAICS code 517212.

¹⁹⁷ See generally 13 C.F.R. § 121.201.

¹⁹⁸ Federal Communications Commission, 60th Annual Report, Fiscal Year 1994, at ¶ 116.

¹⁹⁹ See 47 C.F.R. §§ 101 et seq. (formerly, Part 21 of the Commission's Rules) for common carrier fixed microwave services (except Multipoint Distribution Service).

²⁰⁰ Persons eligible under parts 80 and 90 of the Commission's Rules can use Private Operational-Fixed Microwave services. See 47 C.F.R. Parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

²⁰¹ Auxiliary Microwave Service is governed by Part 74 of Title 47 of the Commission's Rules. See 47 C.F.R. Part 74. This service is available to licensees of broadcast stations and to broadcast and cable network entities. Broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile television pickups, which relay signals from a remote location back to the studio.

²⁰² 13 CFR § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 22,015 common carrier fixed licensees and up to 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies proposed herein. We noted, however, that the common carrier microwave fixed licensee category includes some large entities.

110. **39 GHz Service.** The Commission created a special small business size standard for 39 GHz licenses – an entity that has average gross revenues of \$40 million or less in the three previous calendar years.²⁰³ An additional size standard for “very small business” is: an entity that, together with affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.²⁰⁴ The SBA has approved these small business size standards.²⁰⁵ The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and policies proposed herein.

111. **Local Multipoint Distribution Service.** Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications.²⁰⁶ The auction of the 986 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than \$40 million in the three previous calendar years.²⁰⁷ An additional small business size standard for “very small business” was added as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years.²⁰⁸ The SBA has approved these small business size standards in the context of LMDS auctions.²⁰⁹ There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 32 small and very small business winning that won 119 licenses.

112. **218-219 MHz Service.** The first auction of 218-219 MHz (previously referred to as the Interactive and Video Data Service or IVDS) spectrum resulted in 178 entities winning licenses for 594

²⁰³ See Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, ET Docket No. 95-183, *Report and Order*, 12 FCC Rcd 18600 (1997), 63 Fed.Reg. 6079 (Feb. 6, 1998).

²⁰⁴ *Id.*

²⁰⁵ See Letter to Kathleen O'Brien Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA (Feb. 4, 1998) (VoIP); See Letter to Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Hector Barreto, Administrator, Small Business Administration, dated January 18, 2002 (WTB).

²⁰⁶ See Rulemaking to Amend Parts 1, 2, 21, 25, of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, Reallocate the 29.5-30.5 Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rule Making*, 12 FCC Rcd 12545, 12689-90, para. 348 (1997).

²⁰⁷ See Rulemaking to Amend Parts 1, 2, 21, 25, of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, Reallocate the 29.5-30.5 Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rule Making*, 12 FCC Rcd 12545, 12689-90, para. 348 (1997).

²⁰⁸ See Rulemaking to Amend Parts 1, 2, 21, 25, of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, Reallocate the 29.5-30.5 Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, *Second Report and Order, Order on Reconsideration, and Fifth Notice of Proposed Rule Making*, 12 FCC Rcd 12545, 12689-90, para. 348 (1997).

²⁰⁹ See Letter to Dan Phythyon, Chief, Wireless Telecommunications Bureau, FCC, from Aida Alvarez, Administrator, SBA (Jan. 6, 1998).

Metropolitan Statistical Areas (MSAs).²¹⁰ Of the 594 licenses, 567 were won by 167 entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a \$6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than \$2 million in annual profits each year for the previous two years.²¹¹ In the 218-219 MHz Report and Order and Memorandum Opinion and Order, we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not exceeding \$15 million for the preceding three years.²¹² A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not exceeding \$3 million for the preceding three years.²¹³ The SBA has approved of these definitions.²¹⁴ At this time, we cannot estimate the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218-219 MHz spectrum. Given the success of small businesses in the previous auction, and the prevalence of small businesses in the subscription television services and message communications industries, we assume for purposes of this analysis that in future auctions, many, and perhaps all, of the licenses may be awarded to small businesses.

113. **Location and Monitoring Service (LMS).** Multilateration LMS systems use non-voice radio techniques to determine the location and status of mobile radio units. For purposes of auctioning LMS licenses, the Commission has defined "small business" as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding \$15 million.²¹⁵ A "very small business" is defined as an entity that, together with controlling interests and affiliates, has average annual gross revenues for the preceding three years not exceeding \$3 million.²¹⁶ These definitions have been approved by the SBA.²¹⁷ An auction for LMS licenses commenced on February 23, 1999, and closed on March 5, 1999. Of the 528 licenses auctioned, 289 licenses were sold to four small businesses. We cannot accurately predict the number of remaining licenses that could be awarded to small entities in future LMS auctions.

114. **Rural Radiotelephone Service.** The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service.²¹⁸ A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS).²¹⁹ The Commission uses the SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," i.e., an entity employing no more than 1,500 persons.²²⁰ There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and

²¹⁰ See "Interactive Video and Data Service (IVDS) Applications Accepted for Filing," *Public Notice*, 9 FCC Rcd 6227 (1994).

²¹¹ Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Fourth Report and Order*, 9 FCC Rcd 2330 (1994).

²¹² Amendment of Part 95 of the Commission's Rules to Provide Regulatory Flexibility in the 218-219 MHz Service, *Report and Order and Memorandum Opinion and Order*, 15 FCC Rcd 1497 (1999).

²¹³ *Id.*

²¹⁴ See Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated January 6, 1998.

²¹⁵ Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems, *Second Report and Order*, 13 FCC Rcd 15182, 15192 ¶ 20 (1998); see also 47 C.F.R. § 90.1103.

²¹⁶ Amendment of Part 90 of the Commission's Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems, *Second Report and Order*, 13 FCC Rcd at 15192, para. 20; see also 47 C.F.R. § 90.1103.

²¹⁷ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated February 22, 1999.

²¹⁸ The service is defined in § 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

²¹⁹ BETRS is defined in §§ 22.757 and 22.759 of the Commission's Rules, 47 C.F.R. §§ 22.757 and 22.759.

²²⁰ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

policies proposed herein.

115. **Air-Ground Radiotelephone Service.** The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service.²²¹ We will use SBA's small business size standard applicable to "Cellular and Other Wireless Telecommunications," i.e., an entity employing no more than 1,500 persons.²²² There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of them qualify as small under the SBA small business size standard.

116. **Aviation and Marine Radio Services.** Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category "Cellular and Other Telecommunications," which is 1,500 or fewer employees.²²³ Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations in this analysis, we estimate that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875-157.4500 MHz (ship transmit) and 161.775-162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a "small" business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$15 million dollars. In addition, a "very small" business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$3 million dollars.²²⁴ There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as "small" businesses under the above special small business size standards.

117. **Offshore Radiotelephone Service.** This service operates on several ultra high frequencies (UHF) television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico.²²⁵ There are presently approximately 55 licensees in this service. We are unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for "Cellular and Other Wireless Telecommunications" services.²²⁶ Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.²²⁷

118. **Multiple Address Systems (MAS).** Entities using MAS spectrum, in general, fall into two categories: (1) those using the spectrum for profit-based uses, and (2) those using the spectrum for private internal uses. With respect to the first category, the Commission defines "small entity" for MAS licenses as an entity that has average gross revenues of less than \$15 million in the three previous

²²¹ The service is defined in § 22.99 of the Commission's Rules, 47 C.F.R. § 22.99.

²²² 13 CFR § 121.201, NAICS codes 513322 (changed to 517212 in October 2002).

²²³ 13 CFR § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

²²⁴ Amendment of the Commission's Rules Concerning Maritime Communications, PR Docket No. 92-257, *Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19853 (1998).

²²⁵ This service is governed by Subpart I of Part 22 of the Commission's Rules. See 47 C.F.R. §§ 22.1001-22.1037.

²²⁶ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

²²⁷ *Id.*

calendar years.²²⁸ "Very small business" is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$3 million for the preceding three calendar years.²²⁹ The SBA has approved of these definitions.²³⁰ The majority of these entities will most likely be licensed in bands where the Commission has implemented a geographic area licensing approach that would require the use of competitive bidding procedures to resolve mutually exclusive applications. The Commission's licensing database indicates that, as of January 20, 1999, there were a total of 8,670 MAS station authorizations. Of these, 260 authorizations were associated with common carrier service. In addition, an auction for 5,104 MAS licenses in 176 EAs began November 14, 2001, and closed on November 27, 2001.²³¹ Seven winning bidders claimed status as small or very small businesses and won 611 licenses.

119. With respect to the second category, which consists of entities that use, or seek to use, MAS spectrum to accommodate internal communications needs, we note that MAS serves an essential role in a range of industrial, safety, business, and land transportation activities. MAS radios are used by companies of all sizes, operating in virtually all U.S. business categories, and by all types of public safety entities. For the majority of private internal users, the definitions developed by the SBA would be more appropriate. The applicable definition of small entity in this instance appears to be the "Cellular and Other Wireless Telecommunications" definition under the SBA rules. This definition provides that a small entity is any entity employing no more than 1,500 persons.²³² The Commission's licensing database indicates that, as of January 20, 1999, of the 8,670 total MAS station authorizations, 8,410 authorizations were for private radio service, and of these, 1,433 were for private land mobile radio service.

120. **Incumbent 24 GHz Licensees.** This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of "Cellular and Other Wireless Telecommunications" companies. This category provides that such a company is small if it employs no more than 1,500 persons.²³³ According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year.²³⁴ Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more.²³⁵ Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, we believe that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent²³⁶ and TRW, Inc. It is our understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

121. **Future 24 GHz Licensees.** With respect to new applicants in the 24 GHz band, we have defined "small business" as an entity that, together with controlling interests and affiliates, has average

²²⁸ See Amendment of the Commission's Rules Regarding Multiple Address Systems, *Report and Order*, 15 FCC Rcd 11956, 12008, para. 123 (2000).

²²⁹ *Id.*

²³⁰ See Letter to Thomas Sugrue, Chief, Wireless Telecommunications Bureau, Federal Communications Commission, from Aida Alvarez, Administrator, Small Business Administration, dated June 4, 1999.

²³¹ See "Multiple Address Systems Spectrum Auction Closes," *Public Notice*, 16 FCC Rcd 21011 (2001).

²³² See 13 C.F.R. § 121.201, NAICS code 517212.

²³³ 13 C.F.R. § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

²³⁴ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Employment Size of Firms Subject to Federal Income Tax: 1997," Table 5, NAICS code 513322 (issued October 2000).

²³⁵ *Id.* The census data do not provide a more precise estimate of the number of firms that have employment of 1,500 or fewer employees; the largest category provided is "Firms with 1,000 employees or more."

²³⁶ Teligent acquired the DEMS licenses of FirstMark, the only licensee other than TRW in the 24 GHz band whose license has been modified to require relocation to the 24 GHz band.

annual gross revenues for the three preceding years not exceeding \$15 million.²³⁷ “Very small business” in the 24 GHz band is defined as an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding \$3 million for the preceding three years.²³⁸ The SBA has approved these definitions.²³⁹ The Commission will not know how many licensees will be small or very small businesses until the auction, if required, is held.

122. **Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and Instructional Television Fixed Service.** Multichannel Multipoint Distribution Service (MMDS) systems, often referred to as “wireless cable,” transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS).²⁴⁰ In connection with the 1996 MDS auction, the Commission defined “small business” as an entity that, together with its affiliates, has average gross annual revenues that are not more than \$40 million for the preceding three calendar years.²⁴¹ The SBA has approved of this standard.²⁴² The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs).²⁴³ Of the 67 auction winners, 61 claimed status as a small business. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that have gross revenues that are not more than \$40 million and are thus considered small entities.²⁴⁴

123. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution,²⁴⁵ which includes all such companies generating \$12.5 million or less in annual receipts.²⁴⁶ According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year.²⁴⁷ Of this total, 1,180 firms had annual receipts of under \$10 million, and an additional 52 firms had receipts of \$10 million or more but less than \$25 million.²⁴⁸ Consequently, we estimate that the majority of providers in this service category are small businesses that may be affected by the proposed rules and policies.

²³⁷ Amendments to Parts 1, 2, 87 and 101 of the Commission’s Rules To License Fixed Services at 24 GHz, *Report and Order*, 15 FCC Rcd 16934, 16967, para. 77 (2000) (24 GHz Report and Order); *see also* 47 C.F.R. § 101.538(a)(2).

²³⁸ 24 GHz Report and Order, 15 FCC Rcd at 16967, para. 77; *see also* 47 C.F.R. § 101.538(a)(1).

²³⁹ *See* Letter to Margaret W. Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, from Gary M. Jackson, Assistant Administrator, Small Business Administration, dated July 28, 2000.

²⁴⁰ Amendment of Parts 21 and 74 of the Commission’s Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Report and Order*, 10 FCC Rcd 9589, 9593, para. 7 (1995) (MDS Auction R&O).

²⁴¹ 47 C.F.R. § 21.961(b)(1).

²⁴² *See* Letter to Margaret Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Bureau, from Gary Jackson, Assistant Administrator for Size Standards, Small Business Administration, dated March 20, 2003 (noting approval of \$40 million size standard for MDS auction).

²⁴³ Basic Trading Areas (BTAs) were designed by Rand McNally and are the geographic areas by which MDS was auctioned and authorized. *See* MDS Auction R&O, 10 FCC Rcd at 9608, paragraph 34.

²⁴⁴ 47 U.S.C. § 309(j). Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. § 309(j). For these pre-auction licenses, the applicable standard is SBA’s small business size standard for “other telecommunications” (annual receipts of \$12.5 million or less). *See* 13 C.F.R. § 121.201, NAICS code 517910.

²⁴⁵ 13 C.F.R. § 121.201, NAICS code 517510.

²⁴⁶ *Id.*

²⁴⁷ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, “Establishment and Firm Size (Including Legal Form of Organization),” Table 4 (issued October 2000).

²⁴⁸ *Id.*

124. Finally, while SBA approval for a Commission-defined small business size standard applicable to ITFS is pending, educational institutions are included in this analysis as small entities.²⁴⁹ There are currently 2,032 ITFS licensees, and all but 100 of these licenses are held by educational institutions. Thus, we tentatively conclude that at least 1,932 ITFS licensees are small businesses.

125. **Cable and Other Program Distribution.** This category includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. The SBA has developed small business size standard for this census category, which includes all such companies generating \$12.5 million or less in revenue annually.²⁵⁰ According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year.²⁵¹ Of this total, 1,180 firms had annual receipts of under \$10 million and an additional 52 firms had receipts of \$10 million or more but less than \$25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies proposed herein.

126. **Cable System Operators (Rate Regulation Standard).** The Commission has developed its own small business size standard for cable system operators, for purposes of rate regulation. Under the Commission's rules, a "small cable company" is one serving fewer than 400,000 subscribers nationwide.²⁵² The most recent estimates indicate that there were 1,439 cable operators who qualified as small cable system operators at the end of 1995.²⁵³ Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, the Commission estimates that there are now fewer than 1,439 small entity cable system operators that may be affected by the rules and policies proposed herein.

127. **Cable System Operators (Telecom Act Standard).** The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is "a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed \$250,000,000."²⁵⁴ The Commission has determined that there are 67,700,000 subscribers in the United States.²⁵⁵ Therefore, an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed \$250 million in the aggregate.²⁵⁶ Based on available data, the Commission estimates that the number of cable operators serving 677,000 subscribers or fewer, totals 1,450.²⁵⁷ The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose

²⁴⁹ In addition, the term "small entity" under SBREFA applies to small organizations (nonprofits) and to small governmental jurisdictions (cities, counties, towns, townships, villages, school districts, and special districts with populations of less than 50,000). 5 U.S.C. §§ 601(4)-(6). We do not collect annual revenue data on ITFS licensees.

²⁵⁰ 13 CFR § 121.201, NAICS code 513220 (changed to 517510 in October 2002).

²⁵¹ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)", Table 4, NAICS code 513220 (issued October 2000).

²⁵² 47 CFR § 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of \$100 million or less. Implementation of Sections of the 1992 Cable Act: Rate Regulation, *Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (February 27, 1995).

²⁵³ Paul Kagan Associates, Inc., Cable TV Investor, February 29, 1996 (based on figures for December 30, 1995).

²⁵⁴ 47 U.S.C. § 543(m)(2).

²⁵⁵ See FCC Announces New Subscriber Count for the Definition of Small Cable Operator, *Public Notice*, DA 01-158 (January 24, 2001).

²⁵⁶ 47 CFR § 76.901(f).

²⁵⁷ See FCC Announces New Subscriber Count for the Definition of Small Cable Operators, *Public Notice*, DA-01-0158 (released January 24, 2001).

gross annual revenues exceed \$250 million,²⁵⁸ and therefore are unable, at this time, to estimate more accurately the number of cable system operators that would qualify as small cable operators under the size standard contained in the Communications Act of 1934.

128. **Open Video Services.** Open Video Service (OVS) systems provide subscription services.²⁵⁹ The SBA has created a small business size standard for Cable and Other Program Distribution.²⁶⁰ This standard provides that a small entity is one with \$12.5 million or less in annual receipts. The Commission has certified approximately 25 OVS operators to serve 75 areas, and some of these are currently providing service.²⁶¹ Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, D.C., and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 24 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies proposed herein.

129. **Cable Television Relay Service.** This service includes transmitters generally used to relay cable programming within cable television system distribution systems. The SBA has defined a small business size standard for Cable and other Program Distribution, consisting of all such companies having annual receipts of no more than \$12.5 million.²⁶² According to Census Bureau data for 1997, there were 1,311 firms in the industry category Cable and Other Program Distribution, total, that operated for the entire year.²⁶³ Of this total, 1,180 firms had annual receipts of \$10 million or less, and an additional 52 firms had receipts of \$10 million or more but less than \$25 million.²⁶⁴ Thus, under this standard, we estimate that the majority of providers in this service category are small businesses that may be affected by the proposed rules and policies.

130. **Multichannel Video Distribution and Data Service.** MVDDS is a terrestrial fixed microwave service operating in the 12.2-12.7 GHz band. No auction has yet been held in this service, although an action has been scheduled for January 14, 2004.²⁶⁵ Accordingly, there are no licensees in this service.

131. **Amateur Radio Service.** These licensees are believed to be individuals, and therefore are not small entities.

132. **Aviation and Marine Services.** Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category

²⁵⁸ The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.901(f) of the Commission's rules. See 47 CFR § 76.909(b).

²⁵⁹ See 47 U.S.C. § 573.

²⁶⁰ 13 CFR § 121.201, NAICS code 513220 (changed to 517510 in October 2002).

²⁶¹ See <http://www.fcc.gov/csb/ovs/csovsr.html> (current as of March 2002).

²⁶² 13 C.F.R. § 121.201, NAICS code 517510.

²⁶³ U.S. Census Bureau, 1997 Economic Census, Subject Series: Information, "Establishment and Firm Size (Including Legal Form of Organization)," Table 4 (issued October 2000).

²⁶⁴ *Id.*

²⁶⁵ "Auctions of Licenses in the Multichannel Video Distribution and Data Service Rescheduled for January 14, 2004," *Public Notice*, DA 03-2354 (August 28, 2003).

"Cellular and Other Telecommunications," which is 1,500 or fewer employees.²⁶⁶ Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations in this analysis, we estimate that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875-157.4500 MHz (ship transmit) and 161.775-162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a "small" business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$15 million dollars. In addition, a "very small" business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed \$3 million dollars.²⁶⁷ There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as "small" businesses under the above special small business size standards.

133. **Personal Radio Services.** Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The Personal Radio Services include spectrum licensed under Part 95 of our rules.²⁶⁸ These services include Citizen Band Radio Service (CB), General Mobile Radio Service (GMRS), Radio Control Radio Service (R/C), Family Radio Service (FRS), Wireless Medical Telemetry Service (WMTS), Medical Implant Communications Service (MICS), Low Power Radio Service (LPRS), and Multi-Use Radio Service (MURS).²⁶⁹ There are a variety of methods used to license the spectrum in these rule parts, from licensing by rule, to conditioning operation on successful completion of a required test, to site-based licensing, to geographic area licensing. Under the RFA, the Commission is required to make a determination of which small entities are directly affected by the rules being proposed. Since all such entities are wireless, we apply the definition of cellular and other wireless telecommunications, pursuant to which a small entity is defined as employing 1,500 or fewer persons.²⁷⁰ Many of the licensees in these services are individuals, and thus are not small entities. In addition, due to the mostly unlicensed and shared nature of the spectrum utilized in many of these services, the Commission lacks direct information upon which to base an estimation of the number of small entities under an SBA definition that might be directly affected by the proposed rules.

134. **Public Safety Radio Services.** Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.²⁷¹ There are

²⁶⁶ 13 CFR § 121.201, NAICS code 513322 (changed to 517212 in October 2002).

²⁶⁷ Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19853 (1998).

²⁶⁸ 47 C.F.R. Part 90.

²⁶⁹ The Citizens Band Radio Service, General Mobile Radio Service, Radio Control Radio Service, Family Radio Service, Wireless Medical Telemetry Service, Medical Implant Communications Service, Low Power Radio Service, and Multi-Use Radio Service are governed by Subpart D, Subpart A, Subpart C, Subpart B, Subpart H, Subpart I, Subpart G, and Subpart J, respectively, of Part 95 of the Commission's rules. See generally 47 C.F.R. Part 95.

²⁷⁰ 13 C.F.R. § 121.201, NAICS Code 517212.

²⁷¹ With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's Rules, 47 C.F.R. §§ 90.15-90.27. The police service includes approximately 27,000 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes approximately 23,000 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of approximately 41,000 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are approximately 7,000 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest

(continued....)

a total of approximately 127,540 licensees in these services. Governmental entities²⁷² as well as private businesses comprise the licensees for these services. All governmental entities with populations of less than 50,000 fall within the definition of a small entity.²⁷³

IV. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements:

136. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159 ("FCC Remittance Advice"), and pay a regulatory fee based on the number of licenses or call signs.²⁷⁴ Interstate telephone service providers must compute their annual regulatory fee based on their interstate and international end-user revenue using information they already supply to the Commission in compliance with the Form 499-A, Telecommunications Reporting Worksheet, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (e.g., cellular telephones, pagers, cable TV subscribers) they have in service, and complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

137. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject to the fee. Licensees may also file electronically to minimize the burden of submitting multiple copies of the FCC Form 159. Applicants who pay small fees in advance and provide fee information as part of their application must use FCC Form 159.

138. Licensees and regulatees are advised that failure to submit the required regulatory fee in a timely manner will subject the licensee or regulatee to a late payment penalty of 25 percent in addition to

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organizations who set up communications networks among fire lookout towers and ground crews. The approximately 9,000 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The approximately 1,000 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 C.F.R. §§ 90.15-90.27. The approximately 20,000 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 C.F.R. §§ 90.33-90.55.

²⁷² 47 C.F.R. § 1.1162.

²⁷³ 5 U.S.C. § 601(5).

²⁷⁴ The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (e.g., Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the licensee of any translator station that: (1) is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than \$10.

the required fee.²⁷⁵ If payment is not received, new or pending applications may be dismissed, and existing authorizations may be subject to rescission.²⁷⁶ Further, in accordance with the Debt Collection Improvement Act of 1996, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantee if that person or entity fails to pay a delinquent debt owed to any federal agency.²⁷⁷ Nonpayment of regulatory fees is a debt owed the United States pursuant to 31 U.S.C. 3711 *et seq.*, and the Debt Collection Improvement Act of 1996, Public Law 104-134. Appropriate enforcement measures as well as administrative and judicial remedies, may be exercised by the Commission. Debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.²⁷⁸

139. The Commission's rules currently provide for relief in exceptional circumstances. Persons or entities may request a waiver, reduction or deferment of payment of the regulatory fee.²⁷⁹ However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will defer payment in response to a request filed with the appropriate supporting documentation.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered:

140. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. As described in Section III of this FRFA, *supra*, we have created procedures in which all fee-filing licensees and regulatees use a single form, FCC Form 159, and have described in plain language the general filing requirements. We have sought comment on other alternatives that might simplify our fee procedures or otherwise benefit small entities, while remaining consistent with our statutory responsibilities in this proceeding.

141. The Omnibus Appropriations Act for FY 2004, Public Law 108-199, requires the Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to Section 9(a) of the Communications Act, as amended, has required the Commission to collect for Fiscal Year (FY) 2004.²⁸⁰ As noted, we seek comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small entities.

142. We have previously used cost accounting data for computation of regulatory fees, but found that some fees which were very small in previous years would have increased dramatically and would

²⁷⁵ 47 C.F.R. § 1.1164.

²⁷⁶ 47 C.F.R. § 1.1164(c).

²⁷⁷ Public Law 104-134, 110 Stat. 1321 (1996).

²⁷⁸ 31 U.S.C. § 7701(c)(2)(B).

²⁷⁹ 47 C.F.R. § 1.1166.

²⁸⁰ 47 U.S.C. § 159(a).

have a disproportionate impact on smaller entities. The methodology we are proposing in this Report and Order minimizes this impact by limiting the amount of increase and shifting costs to other services which, for the most part, are larger entities.

143. Several categories of licensees and regulatees are exempt from payment of regulatory fees. See, e.g., footnote 274, supra.

Report to Small Business Administration: The Commission will send a copy of this Report and Order, including a copy of the FRFA to the Chief Counsel for Advocacy of the Small Business Administration. The Report and Order and FRFA (or summaries thereof) will also be published in the Federal Register.

Report to Congress: The Commission will send a copy of this Final Regulatory Flexibility Analysis (FRFA), along with this Report and Order, in a report to Congress pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A).